



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

July 13, 2009

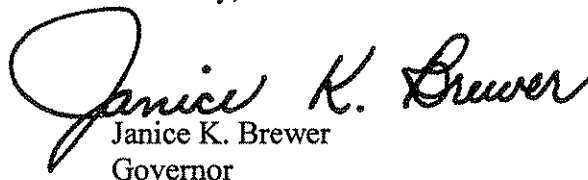
The Honorable Bob Burns
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Dear President Burns,

Today, I signed Senate Bill 1169 which establishes the Capitol Police Administrative Towing Fund and provides that administrative charges collected must be deposited into the fund. The bill also prohibits administrative charges relating to vehicle immobilization or impoundment from being assessed to a towing company that performs removal, immobilization, impoundment, storage or release of a vehicle. The bill contains a retroactive date from and after December 31, 2007.

Cities have informed me that the prohibition of charges to towing companies is in conflict with municipal and towing company contracts. The retroactivity clause also poses a concern for contracts that have been established since 2007. The sponsor assures me that this language was not meant to interfere with contracts established between cities and towing companies. I urge the cities to work with the sponsor for further clarification as soon as possible.

Sincerely,


Janice K. Brewer
Governor

Cc: The Honorable Kirk Adams
The Honorable Russell Pearce

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 158

SENATE BILL 1169

AN ACT

AMENDING SECTIONS 28-1108, 28-3513, 28-4838 AND 41-795, ARIZONA REVISED
STATUTES; RELATING TO VEHICLE IMPOUNDMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-1108, Arizona Revised Statutes, is amended to
3 read:

4 28-1108. Vehicle towing; rules; contractual agreement for
5 towing services; weight exemption

6 A. If a vehicle is towing another vehicle, the drawbar or other
7 connection shall be of sufficient strength to pull all weight towed by the
8 vehicle and the drawbar or other connection shall not exceed fifteen feet
9 from one vehicle to the other, except the connection between any two vehicles
10 transporting poles, pipe, machinery or other objects of a structural nature
11 that cannot readily be dismembered.

12 B. If a vehicle is towing another vehicle and the connection consists
13 of a chain, rope or cable, a white flag or cloth at least twelve inches
14 square shall be displayed on the connection.

15 C. The director of the department of public safety shall adopt and
16 enforce rules that are not inconsistent with this chapter to govern the
17 design and operation of all tow trucks.

18 D. A person may not operate a tow truck for the purpose of towing
19 vehicles without first registering with the director of the department of
20 public safety, OBTAINING A BOND and obtaining a permit pursuant to the rules
21 that govern tow trucks and that are adopted by the department of public
22 safety.

23 E. The director of the department of public safety or a county, city
24 or town may enter into a contractual agreement with a towing firm or firms
25 for towing or storage services, or both. The contractual agreement shall
26 comply with this section and all rules adopted under this section. Contracts
27 shall be awarded on the basis of competitive bidding. The director of the
28 department of public safety or a county, city or town shall reserve the right
29 to reject all bids. If only one bid is received, the director of the
30 department of public safety or a county, city or town may reject the bid and
31 negotiate a contract without bidding if the negotiated contract is at a price
32 lower than the bid price under the terms and conditions specified in the call
33 for bids.

34 F. The total weight of a tow truck and the towed vehicle is exempt
35 from the maximum total gross weight load allowed under section 28-1100 if a
36 damaged, disabled or abandoned vehicle or vehicle combination is towed.

37 Sec. 2. Section 28-3513, Arizona Revised Statutes, is amended to read:
38 28-3513. Administrative charges

39 A. The immobilizing or impounding agency shall establish procedures
40 for immobilization hearings or poststorage hearings, for the release of
41 properly immobilized or impounded vehicles and for imposition of a charge for
42 administrative costs relating to the removal, immobilization, impoundment,
43 storage or release of a vehicle. The immobilizing or impounding agency may
44 waive the administrative charges.

1 B. The administrative charges established pursuant to this section
2 shall not exceed one hundred fifty dollars AND SHALL NOT BE CHARGED TO A
3 TOWING COMPANY THAT PERFORMS REMOVAL, IMMOBILIZATION, IMPOUNDMENT, STORAGE OR
4 RELEASE OF THE VEHICLE.

5 C. The immobilizing or impounding agency shall collect any
6 administrative charges at the time of the release of the vehicle unless the
7 vehicle is stolen and the theft was reported to the appropriate law
8 enforcement agency. If the vehicle is stolen and the theft was reported to
9 the appropriate law enforcement agency, the operator of the vehicle at the
10 time of immobilization or impoundment is responsible for all towing,
11 immobilization, storage and administrative charges.

12 D. The administrative charges established pursuant to this section are
13 in addition to any other immobilization, impoundment or storage charges.

14 E. A justice court providing an immobilization or poststorage hearing
15 may collect a fee equal to the fee established pursuant to section 22-281 for
16 a small claims answer.

17 F. If the immobilizing or impounding agency is:

18 1. A municipality, the administrative charges collected pursuant to
19 this section shall be transmitted to the city treasurer for deposit in a
20 special fund established by the municipality for the purpose of implementing
21 section 28-872 and this article.

22 2. A county, the administrative charges collected pursuant to this
23 section shall be transmitted to the county treasurer for deposit in a special
24 fund established by the county for the purpose of implementing section 28-872
25 and this article.

26 3. The department of public safety, the administrative charges
27 collected pursuant to this section shall be deposited, pursuant to sections
28 35-146 and 35-147, in the Arizona highway patrol fund established by section
29 41-1752.

30 4. THE CAPITOL POLICE, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT
31 TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147,
32 IN THE CAPITOL POLICE ADMINISTRATIVE TOWING FUND ESTABLISHED BY SECTION
33 41-795.

34 Sec. 3. Section 28-4838, Arizona Revised Statutes, is amended to read:

35 28-4838. Report; abandoned and seized vehicles; violation;
36 classification

37 A. A person who has knowledge and custody of a vehicle that is either
38 lost, stolen, abandoned or otherwise unclaimed, that has been seized pursuant
39 to law or removed from the right-of-way of any highway, road, street or other
40 public thoroughfare or other public property by order of an officer of the
41 department of public safety, sheriff's officer or city or town police officer
42 and that has been held for a period of ten days and a claim has not been made
43 for the return or possession of the vehicle by a person legally entitled to
44 the vehicle shall do all of the following within five days after the
45 expiration of the ten day retention period:

1 1. Submit an ELECTRONIC abandoned vehicle report to the director that
2 is on a form prescribed by the director and that contains all of the
3 following:

- 4 (a) A complete description of the vehicle.
5 (b) The vehicle license or registration number, if any.
6 (c) The circumstances of the person's or officer's removal or custody.
7 (d) Other information the director requires.

8 2. Provide a completed ELECTRONIC application for transfer of
9 ownership ON A FORM PRESCRIBED BY THE DIRECTOR.

10 3. Submit a vehicle identification form as prescribed by the director.

11 4. If applicable, submit the authorization form signed by the private
12 property owner as prescribed in section 28-4834.

13 5. Pay all fees prescribed by this title.

14 B. Except if the vehicle inspection as prescribed in section 28-4834
15 is not completed within the time prescribed in subsection A of this section
16 due to no fault of the person, a person who fails to submit the documents for
17 the purpose of transferring ownership by the time specified in subsection A
18 of this section:

19 1. Forfeits all claims for towing and storing the vehicle.

20 2. Is guilty of a class 2 misdemeanor.

21 Sec. 4. Section 41-795, Arizona Revised Statutes, is amended to read:

22 41-795. Police officers; duties; capitol police administrative
23 towing fund

24 A. The police officers who are employed pursuant to section 41-794
25 have the authority and law enforcement responsibility for the protection of
26 the state capitol building and grounds and all real property and buildings
27 under the jurisdiction of the department as prescribed by section 41-791 and
28 persons who are on this property. Police officers may make arrests and issue
29 citations for crimes or traffic offenses and for a violation of a rule
30 adopted under ~~the provisions of~~ section 41-796.

31 B. THE CAPITOL POLICE ADMINISTRATIVE TOWING FUND IS ESTABLISHED
32 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 28-3513. THE DEPARTMENT
33 SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED
34 AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
35 APPROPRIATIONS. THE MONIES IN THE FUND MAY BE USED BY THE CAPITOL POLICE
36 DEPARTMENT FOR LAW ENFORCEMENT PURPOSES.

37 Sec. 5. Retroactivity

38 This act applies retroactively to from and after December 31, 2007.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.